

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

203

CRM-M-5044-2021 (O&M)

Date of decision: 17.08.2023

Birender @ Bijender

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. J.P. Sharma, Advocate
for the petitioner.

Ms. Trishanjali Sharma, DAG, Haryana.

Mr. Anil Sharma, Advocate
for respondents No.2 and 3.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant petition is for quashing of FIR No.479 dated 29.09.2019 under Sections 323, 325, 307 and 506 of the IPC (Sections 325 and 307 of the IPC added lateron) registered at Police Station City Mahendergarh, District Mahendergarh (Annexure P-1) and all consequential proceedings arising out of the same including charge sheet/challan dated 25.02.2020 (Annexure P-2) and charges framed by learned Sessions Judge, Narnaul dated 19.11.2020 (Annexure P-3), on the basis of compromise dated 28.01.2021 (Annexure P-4) arrived at, between the parties.

2. Learned counsel for the petitioner submits that subsequent to the registration of the FIR in question, with the intervention of the family members, respectables and other well wishers, the parties who

are related to each other, have ironed out their differences and arrived at an amicable settlement vide Annexure P-4 dated 28.01.2021. It has, therefore, been submitted that in the aforesaid circumstances, continuation of criminal proceedings would serve no useful purpose and thus, the FIR in question along with all consequential proceedings arising therefrom be quashed.

3. Learned counsel appearing for respondents No.2 and 3 has not opposed the prayer made by counsel opposite for quashing of the FIR in question on the basis of compromise so arrived at between the parties.

4. Learned State counsel, however, has vehemently opposed the prayer made by learned counsel for the petitioner for quashing of the FIR on the basis of compromise effected between the parties. Learned State counsel has drawn the attention of this Court to the allegations levelled in the FIR which has been annexed as Annexure P-1. She has submitted that a perusal of the FIR in question clearly reveals that the petitioner had committed a heinous offence as he had inflicted injuries on various parts of the body of the injured with an axe, which he was carrying at the relevant time, as a result of which the complainant was rendered unconscious. She has further submitted that the injuries inflicted by the petitioner with an axe on the head was declared to be dangerous to life, for which he had been charged under Section 307 of the IPC. Besides this, the petitioner had also been charged for commission of offences under Sections 325, 323 and 506 of the IPC for having caused multiple injuries to respondents No.2 and 3.

Learned State counsel has vehemently argued that without doubt the

offence in question being heinous in nature cannot be quashed merely on the basis of a compromise effected between the parties. In support, learned State counsel has placed reliance upon ***The State of Madhya Pradesh Vs. Laxmi Narayan and others : (2019) 5 SCC 688.***

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. No doubt, in cases where the offences are private in nature and the parties have amicably settled their disputes, the Courts should unhesitatingly go ahead and quash the FIR. However, powers of this Court under Section 482 of the Cr.P.C., though wide, are certainly not unbridled and thus have to be exercised sparingly and with a great deal of circumspection.

7. Before proceedings further, it would be apposite to refer to the following observations made by the Hon'ble Supreme Court in its various pronouncements while dealing with quashing of FIR on the basis of compromise:-

Laxmi Narayan's case (supra), wherein the Hon'ble Supreme Court has held as under:-

“15.4 offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected

sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;”

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(SC) 642, wherein the Hon'ble Supreme Court has categorically held as

under:-

“38. However, before exercising its power under Section 482 of the Cr.P.C. to quash an FIR, criminal complaint and/or criminal proceedings, the High Court, as observed above, has to be circumspect and have due regard to the nature and gravity of the offence. Heinous or serious crimes, which are not private in nature and have a serious impact on society cannot be quashed on the basis of a compromise between the offender and the complainant and/or the victim. Crimes like murder, rape, burglary, dacoity and even abetment to commit suicide are neither private nor civil in nature. Such crimes are against the society. In no circumstances can prosecution be quashed on compromise, when the offence is serious and grave and falls within the ambit of crime against society.

39. Orders quashing FIRs and/or complaints relating to grave and serious offences only on basis of an agreement with the complainant, would set a dangerous precedent, where complaints would be lodged for oblique reasons, with a view to extract money from the accused. Furthermore, financially strong offenders would go scot free, even in cases of grave and serious offences such as murder, rape, brideburning, etc. by buying off informants/complainants and settling with them. This would render otiose provisions such as Sections 306, 498A, 304-B etc. incorporated in the IPC as a deterrent, with a specific social purpose.”

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Law (SC) 749, wherein the Hon'ble Supreme Court has cautioned the Courts in the following terms:-

“42. Thus it is clear from the march of law that the Court has to go slow even while exercising jurisdiction under Section 482 Cr.PC or Article 226 of the Constitution in the matter of quashing of criminal proceedings on the basis of a settlement reached between the parties, when the offences are capable of having an impact not merely on the complainant and the accused but also on others.”

8. Adverting to the case in hand, and in the wake of the above judicial pronouncements of Hon'ble Supreme Court, a perusal of the FIR (Annexure P-1) as well as the charge sheet (Annexure P-3) reveal that the petitioner came to the fields of the injured complainant carrying an axe in his hand and thereafter inflicted blows with an axe on various parts of the complainant's body including his head. His wife who rushed to his rescue then removed the injured complainant to the hospital. Though the matter has been settled between the parties, however, this Court cannot ignore the gravity of the offence as the petitioner had inflicted injuries on the complainant after giving him continuous blows with the axe which he was allegedly carrying with him. The injuries inflicted by the petitioner on the head of the complainant were declared dangerous to life inviting the mischief of offence under Section 307 of the IPC. Hence, in the wake of the allegations levelled and injuries attributed to the petitioner coupled with the ratio of law laid down by the Hon'ble Supreme Court, this Court does not deem it fit to quash the FIR in question on the basis of compromise.

9. Accordingly, the instant petition is hereby dismissed.

10. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

17.08.2023	(MANJARI NEHRU KAUL)
Vinay	JUDGE
Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No